

Appl. No. 09/611,447  
Amdt. dated May 28, 2004  
Reply to Office action of March 2, 2004

Remarks:

Claims 1-23 are pending in this application.

The Applicant thanks the Examiner for the interview of May 14, 2004 during which was discussed the definition of a service network in claim 6, the nature of the Traffic Parameter TLV of the Jamoussi et al., Internet Draft, "Constraint-Based LSP Setup using LDP," September 1999 (hereinafter, "Jamoussi") and the appropriateness of citing Tang et al., Internet Draft, "Extensions to CR-LDP for Path Establishment in Optical Networks," March 2000 (hereinafter, "Tang").

The Examiner has rejected claims 11-15 under 35 U.S.C. 101 for lacking patentable utility. Claims 11-15 have been amended to specify that the described data structures are contained by computer memory. As such, the data structures have a physical manifestation and are therefore directed to patentable subject matter. Furthermore, it is submitted that each of claims 11-15 produce a "useful, concrete and tangible result" in that the value field includes an indication of specific information of use to the entity that reads the one or more computer memories.

The Examiner has rejected claims 6-8 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,577,418 to Boivie (hereinafter Boivie). The Applicant respectfully disagrees.

To anticipate claim 6, Boivie must disclose each element of claim 6.

For instance, to anticipate claim 6, as amended, Boivie must disclose "encoding a representation of traffic characteristics of an interface between one of said optical label switching routers in said first data communication network and a node in a second network". It is submitted that the claimed optical label switching routers may be found in Boivie as the network of "OIPs" (optical IP switches). Although it is clear in Boivie that the network of OIPs connects to destinations beyond the network of OIPs, i.e., nodes in a second network. There is no discussion or contemplation of "encoding a representation of traffic characteristics of an interface" to the nodes in the second network.

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As such, there can be no anticipation of claim 6 by Boivie. It is therefore respectfully requested that the Examiner

In view of the forgoing, applicant submits that claim 6, as amended, is not anticipated by Boivie and respectfully requests that the Examiner's rejection on that basis be withdrawn. Furthermore, it is submitted that claims 7 and 8, which depend from claim 6, are not anticipated by Boivie and are, therefore, patentable.

The Examiner has rejected claims 1, 2, 11-13, 16, 17, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Boivie in view of Jamoussi. The applicant respectfully disagrees.

In order to establish that any claim is obvious, the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success. (See M.P.E.P. 2142)

In rejecting claim 1, the Examiner has admitted that Boivie does not disclose an optical label including an indication of bandwidth on each of a plurality of channels. The Examiner then cites Jamoussi to provide such an optical label. However, as amended, claim 1 requires an optical label to include "an indication of currently available bandwidth on each of said plurality of channels". It is submitted that the Traffic Parameter TLV of Jamoussi includes static aspects of a label switched path. The static aspects include Peak Data Rate, Peak Burst Size, Committed Data Rate, Committed Burst Size and Excess Burst Size. It is further submitted that "currently available bandwidth" is a dynamic aspect of a channel, independent of the static aspects of the same channel. This dynamic aspect provides an advantage in that a node reading the optical label may determine whether the channel is available for the provision of a label switched path.

As such, it is submitted that all the elements claimed in claim 1 are not found in Boivie or Jamoussi, or a combination of Boivie and Jamoussi. It is therefore submitted that claim 1 is patentable over the combination of Boivie and Jamoussi. Furthermore, it is submitted that claim 2, which depends from claim 1, is patentable over the combination of Boivie and Jamoussi.

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It is further submitted, for the reasons stated hereinbefore in the discussion of claim 1, that claim 11, which claims a computer memory containing a data structure encoded according to the method of claim 1, claim 16, which claims an optical label switching router operable to perform the method of claim 1, and claim 20, which claims a computer readable medium adapting an optical label switching router to perform the method of claim 1, are also patentable over the combination of Boivie and Jamoussi.

Although Jamoussi contemplates assigning Service Class characteristics to a Label Switched Path, it is submitted that there is no contemplation in either Jamoussi or Boivie of a value field including an attribute including "an indication of a service type" of a service network connected, via an interface, to a network of label switching routers, as required by amended claim 12. As such, it is submitted that all the elements claimed in claim 12 are not found in Boivie or Jamoussi, or a combination of Boivie and Jamoussi. It is therefore submitted that claim 12 is patentable over the combination of Boivie and Jamoussi.

It is further submitted, for the reasons stated hereinbefore in the discussion of claim 12, that claim 17, which claims an optical label switching router operable to encode an optical label according to claim 12, and claim 21, which claims a computer readable medium adapting an optical label switching router to encode an optical label according to claim 12, are also patentable over the combination of Boivie and Jamoussi.

Although Jamoussi contemplates assigning Service Class characteristics to a Label Switched Path, it is submitted that there is no contemplation in either Jamoussi or Boivie of a value field including an attribute including "an indication of a control protocol" of a service network connected, via an interface, to a network of label switching routers, as required by amended claim 13. As such, it is submitted that all the elements claimed in claim 13 are not found in Boivie or Jamoussi, or a combination of Boivie and Jamoussi. It is therefore submitted that claim 13 is patentable over the combination of Boivie and Jamoussi.

The Examiner has rejected claims 1-5, 9, 10, 14-16, 18-20, 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over Boivie in view of Tang. It is submitted that, in view of the invention date (February 4, 2000) established by way of the declaration filed in response to the first office action, Tang, with a publication date of March 2000, may not be cited against the present application.

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As claims 3-5, 9, 10, 18, 19, 22 and 23 have not been properly rejected, it is submitted that these claims are patentable.

Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted,



Ronald D. Faggetter  
Registration No. 33,345  
SMART & BIGGAR  
438 University Avenue  
Suite 1500, Box 111  
Toronto, Canada M5G 2K8

Telephone: (416) 593-5514  
Facsimile: (416) 591-1690

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